

ENVIRONMENTAL QUALITY COMMISSION

EQC Public Forum
December 16, 1999
Room 129 Capitol Annex, Frankfort

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The Kentucky Environmental Quality Commission (EQC) held a public forum on December 16, 1999 at 1:00 at the Capitol Annex in Frankfort, Kentucky. Commissioners present were Chair Aloma Dew, Vice-Chair Betsy Bennett, Bob Riddle, Patty Wallace, and Serena Williams. EQC staff present was Leslie Cole, Scott Richards, Erik Siegel, and Frances Kirchhoff. There were approximately 25 people in attendance.

EQC Chair, Aloma Dew called the meeting to order at 1:10 p.m. Chairperson Dew introduced Mr. John Hornback, Director of Division of Air Quality (DAQ). Mr. Hornback introduced Mr. Ken Hines, Program Planning Branch of the Division of Air Quality, who gave a brief summary of the one-hour ozone standard redesignation for Boone, Campbell, and Kenton counties.

A motion was made by Betsy Bennett to recommend approval of the Kentucky Division of Air Quality's proposed plan to redesignate the Kentucky portion of the Cincinnati-Hamilton moderate ozone nonattainment area to attainment for the one-hour ozone national ambient air quality standard. The motion was seconded by Bob Riddle and passed by voice vote to approve the ozone redesignation request.

Mr. Hornback next gave a briefing regarding the ozone noncompliance situation in Jefferson County. Jefferson County has not met the one-hour ozone standard and does not qualify for the redesignation. DAQ participated with Indiana in gathering some computer modeling data. It is hoped that adoption of regulations in Kentucky to reduce nitrogen oxide emissions (NOX) from power plants by the spring of 2003 will help reduce ozone pollution in the area.

Next, Chairperson Dew introduced Mr. Bob Arnold, Commissioner of the Department for Local Government. Mr. Arnold serves as Chair of the Water Resources Development Commission, (WRDC). With Mr. Arnold was Mr. Lawrence Wetherby, III, Executive Director, of WRDC, and Mr. Kent Anness, GIS Manager of WRDC.

Mr. Annes gave an overview of WRDC Governor's potable water initiative through a power point presentation. The mission statement for the WRDC is to provide leadership in the development of a strategic plan to make potable water available to approximately 275,000 Kentucky households not presently served by a public system. The Commission, in coordination with other state agencies that share a common interest, shall promote the use of, and access to, geographic information systems and related technologies to more effectively and efficiently address problems and support decision-making pertaining to Kentucky's infrastructure.

Mr. Annes provided highlights of WRDC's efforts as follows:

Phase I Highlights—

- Inventory of Kentucky Water and Wastewater service providers is complete
- Created the first statewide water resource GIS in the nation
- Identified gaps in the data that will be needed to effectively plan the consolidation of water service providers
- Work has commenced on the development of a set of digital submission standards for water and wastewater systems projects that will need to be adopted/implemented by all funding agents
- Created a web site to keep the Commission members informed about progress and to share data and maps with interest parties

Phase II highlights—

- Develop a strategic water resource development plan that includes a comprehensive development strategy to maximize the utilization of public funds in the expansion of water systems to ensure that potable water is available to every Kentucky household by the year 2020. Health and safety concerns, in terms of wastewater disposal and fire suppression, will be addressed as well
- Review of the strategic plan is underway. The plan includes cost estimates and recommendations necessary to carry out Governor Patton's goals
- Water development plan is in a totally digital format that will facilitate sharing across the network
- Continue to fine-tune and update WRIS/GIS
- Initiated the creation of a digital groundwater atlas by KGS that will assist in the identification of water sources in remote areas
- Distribution of Phase I data to KNREPC-OIS, Surface Mining, Division of Water, PSC, and Economic Development for use and review.
- Prompted and supported regionalization efforts in Logan-Todd, Carr Fork lake, and

Central Kentucky Pollutant Discharge Elimination System

- First draft of the plan was delivered to the Governor on October 15

What's Next—

- WRDC will continue to study potential incentive programs that will assist in system unification and upgrades/extensions.
- WRDC will continue to investigate funding sources (JFA) for the update and maintenance of the WRIS so that all interested agencies will have access to the most up-to-date and accurate information for their operations.
- Work with DOW & PSC on accessing the WRIS;
- Begin to look at water supply more closely from a quantity and quality standpoint—coordination with WSP efforts is crucial;
- Must work with the Governor and his staff on the implementation of the plan.
- Begin compilation of the wastewater strategic plan.

After the presentation a question and answer period followed. Bob Riddle introduced himself and made a comment concerning water quality and fire suppression. Mr. Riddle stated that in the countywide plan done in Georgetown six or seven years ago, fire protection was ruled out because of the cost. Fire protection requires the line to be larger and the larger pipes sometime create water quality problems. Mr. Riddle encouraged the WRDC to let drinking water quality be the driving force behind extending water lines rather than fire suppression. Mr. Arnold agreed that water quality is the important issue, but because of labor cost, when feasible, the larger pipe was installed to accommodate fire suppression.

?Ms. Cole asked about infrastructure planning at the local level and how the Commission suggests counties be involved. Commissioner Arnold remarked that counties do not have the expertise to prepare such plans and that the Commission would work with local governments to better plan for infrastructure services. Other questions regarding regionalization and the need to contain urban sprawl followed.

Next, Chairperson Dew introduced Mr. Bruce Williams, Deputy Secretary of the Cabinet for Natural Resources (NREPC), and his assistant, Mark Mangeot. Mr. Williams highlighted NREPC's agenda for the upcoming 2000 Legislative Session. Among the agenda items are issues regarding waste management, litter, tire piles, solid waste (Rep. Stumbo's House Bill 1), AFOs and CAFOs with integrator liability and siting issues (setbacks); brownfields; Black Mountain; vehicle emissions testing; takings; forestry, and ownership and control.

Betsy Bennett asked if the Cabinet would be working for or against Rep. Wayne's initiative regarding Smart Growth. Mr. Williams said NREPC supported the concept of Smart Growth but had not taken a position on the measure.

Ms. Aloma Dew asked if the Cabinet was committed to integrator liability for poultry operations. Mr. Williams responded that NREPC was committed to this and would include this in proposed regulations.

The regulations are under development and should be out by the middle of next month.

Ms. Dew asked about the status of Blanton Forest. Mr. Williams noted that the final purchases for several tracts are underway.

Mr. Wade Helm, Kentucky Conservation Committee asked if the Cabinet would be seeking more funds for forestry personnel. Mr. Williams responded yes, it looks like there will be a request for more positions in Division of Forestry.

Ms. Bennett asked about funding for the Ky. River Authority to maintain locks and dams. Mr. Williams responded that the Authority is asking for \$1.7 million to study lock 10 and \$6 million for construction. The plan is to look at the funding in a cyclical timeframe. In every session Mr. Williams said that the Cabinet would be requesting funds for maintaining the locks and dams.

Next on the agenda, Ms. Dew introduced Jeff Pratt, Assistant Director for the Division of Waste Management, Dan Gray with the Division of Air Quality, and George Gilbert with the Division of Waste Management. They were invited to update EQC concerning the proposed permit to burn waste tires at the Owensboro Municipal Utilities power plant.

Mr. Pratt noted that since 1990, NREPC has been working to address the problem of waste tires in Kentucky. In 1996, Secretary Bickford established waste tires as one of the cabinet's top 10 priorities. Mr. Pratt then presented several facts:

- In 1990 there were an estimated 10 millions tires in piles throughout the state
- Tire piles pose a health and fire hazard
- In 1996, the state imposed a \$1 fee for all tires sold
- The state could wave the fee if a dealer agreed to have tires properly recycled.
- Money generated was used to support a grant and loan program to try and deal with waste tires.
- In 1998, the waste tire law was amended. The new law removes the tire fee exemptions so that \$1 fee applies to all retailers and all sell of new tires in the state.
- This increased revenue to \$3 million per year. The revenue has allowed the state to implement a tire amnesty program. Waste tire amnesty programs have been completed in 47 counties resulting in the removal of 1.8 million tires.
- State has cleaned up 26 waste tire piles with 3.2 million tires.

Mr. Pratt noted that the Cabinet's position on waste tires has been 2-fold—to clean up existing dumps and to create new waste tire markets. With respect to creating markets, the focus has been on tire derived

fuels. Mr. Pratt said that trial burns have been conducted at Owensboro Municipal Utilities (OMU) power plant in Owensboro, Dravo Lime in Maysville, and Westvaco in Wickliff. OMU was considered to be the most viable option for the successful use of TDF and is the facility that expressed the most interest. State law is explicit as to what is allowed for this type of application. It allows the transfer of tires to an incinerator or any facility for use as a fuel if the facility does the following:

1. is permitted as a solid waste disposal facility
2. is permitted to burn tires
3. have received a local determination

The law that applies is 224.40-310 that addresses incineration as well as waste-to-energy facilities. Since the TDF application at OMU is for the energy, the waste-to-energy provision in statute is the statute that applies. The law also provides that OMU receive a local determination by the host county fiscal court, which was since been granted by Daviess County.

The Cabinet has drafted a permit for OMU as a waste to energy facility. The public notice is dated 11/22/99 and provides for a 30-day comment period. OMU has also applied for an accumulator registration which is required if the facility is going to accumulate the tires. OMU received a modification to its existing air quality permit for unit one, the unit in which the TDF will be burned. If the permit is approved, OMU will have the need for 1 million waste tires per year—about one third of the waste tires produced in the state annually. The cabinet sees this as a significant step in developing a continuous market for waste tires.

Following the presentation several questions were asked. Ms. Dew asked what impact burning TDF is going to have on the air in the area. Dan Gray with the Division for Air Quality indicated that the air permit to burn waste tires was issued 9/29/99 to OMU. The results of the trial burn done in 1997 showed that there were no measurable changes in particulate sulfur dioxide or nitrogen oxide emissions. SO₂ emissions should be lower because the sulfur content of the tires is less than the coal OMU was burning. Mr. Gray mentioned that the only consequence is some increase in metals such as zinc, from the metal in the tires. Mr. Pratt said the zinc in the ash was not a problem. Mr. Gray noted that particulate emissions should be less than is the case with all coal. Based on this, the permit was approved on the basis that air quality will be the same or better than what you would see burning coal.

Ms. Dew asked if zinc was the only heavy metal checked, and what about aluminum, lead, chromium, etc. She asked if DAQ could assure the people that lived in the area that these things will not be in the air they breathe. Mr. Gray said that there might be an increase in metals in the ash, but not out of the stack. He said according to their review, they do not believe there will be an increase of these chemicals in the air. The concentrations of most of these chemicals are less than what is in the coal. The only increase may be for zinc. And it looks like it is falling out into the ash.

Ms. Dew asked if OMU did specific air testing to see if any of these metals or toxics was being released. Mr. Gray responded that they did not. This information was based on findings at other plants. Ms.

Bennett wondered how we could give a permit without testing for those things; just assuming they are not there. Mr. Gray said that data was reviewed and it was determined not to be a problem. Mr. Gray noted they did not conduct an analysis for zinc emissions. He said they did look at what was in the ash. So he said he could not say for sure that TDF would result in an increase in zinc in the air.

Mr. Hornback, Director of the Division for Air Quality, noted that at this point, DAQ had no specific data of metals in the air when burning TDF at OMU. He noted however, that OMU is required to conduct additional testing within 6 months of the issuance of the air permit and DAQ has not yet specified all the parameters to be tested. Such parameters suggested by Ms. Dew could be included in the additional testing. Mr. Hornback noted that it looks like DAQ might want to look into the issue of additional testing for metals in the air.

Ms. Wallace asked since the test burns were probably done under ideal conditions, what happens if you have a breakdown or the temperature goes down lower? Mr. Gray noted that the unit is checked on a regular basis to ensure it is operating efficiently. Monitoring and reporting requirements are in the permit whether they are burning coal or TDF.

Ms. Wallace asked about the ash and if it was being landfilled. Mr. Pratt noted that OMU has a market to sell and reuse the ash.

Ms. Serena Williams asked what OMU would monitor. Mr. Gray said the permit requires they monitor for sulfur dioxide, oxygen or carbon dioxide (to check on combustion) and opacity of stack emissions. All units must be tested twice during the 5-year life of the permit and the first one must be done 6 months to 1 year of the permit issuance.

Ms. Dew asked about water run-off. Mr. Pratt said that runoff goes through collection ponds and is monitored.

Mr. Scott Richards asked if OMU has made a commitment to focus only on Kentucky waste tires. Mr. Pratt responded that there is a provision in the draft OMU permit that they shall burn waste tires that come from Kentucky. Mr. Richards asked how would that be ensured. Mr. Pratt said that OMU would determine their supplier of tires. They will solicit bids from suppliers. The permit stipulates that bids come from Kentucky suppliers for Kentucky tires.

Aloma closed by saying that the EQC does support the concept of burning waste tires for fuel but we are concerned that it is done in a controlled and regulated environment at OMU. Ms. Bennett made the following motion.

1. The Environmental Quality Commission (EQC) supports the concept of burning tire derived fuel (TDF) in a controlled and regulated manner at the Owensboro Municipal Utilities (OMU) Power Plant.
2. However, EQC expresses concern regarding potential toxic emissions that may be generated

from the burning of waste tires at the OMU power plant and strongly urges the Kentucky Division for Air Quality to more fully characterize the risks posed by burning waste tires and conduct additional testing for the following chemicals:

- Volatile Organic Chemicals (VOCs) such as benzene, chloroform, 1,2-dichloroethane, hexachlorobenzene, methylene chloride, styrene, toluene, and trichloroethylene
 - Polycyclic aromatic hydrocarbons which there is evidence of human mutagenicity or other potential health consequences such as acenaphthene, acenaphthylene, benzo(a)pyrene, benzo(g,h,i) perylene, benzo(k)fluoranthene, fluoranthene, fluorene, phenanthrene, and pyrene
 - Metals of concern such as aluminum, lead, chromium, and arsenic because of their cancer-causing potential and other health effects
 - Dioxins and furans that may be present in emission gases due to incomplete combustion
1. EQC recommends that this testing be conducted in a timely manner during TDF operations as specified in the OMU Power Plant Title 5 Permit to assure this process does not pose a risk to public health or the environment.
 2. EQC recommends that public health and safety be considered paramount given that the OMU power plant operates within a populated area, and that provisions are made to fully anticipate and prevent problems associated with plant upsets, poor unit operation, and other potential unit failures while burning TDF.

The motion was seconded by Bob Riddle, and passed unanimously by voice vote.

Chair Aloma Dew thanked everyone for coming and invited them to stay for the business part of the meeting.

Under other business, Ms. Cole noted that with the ongoing negotiations to purchase the timber and coal rights at Black Mountain it has been suggested that we wait until after the session before taking a field trip to Black Mountain. Ms. Wallace wondered if EQC could help secure money for the Black Mountain purchase. Patty Wallace made a motion for EQC staff to investigate what role the Nature Conservancy might play in the purchase of Black Mountain. It was further suggested that EQC staff do a search for other grant sources. The motion was seconded by Betsy Bennett and passed unanimously.

Ms. Cole called commissioners attention to EQC minutes for the August 18 – 19 public forum in Hawesville and October 19 annual retreat at Carter Caves State Park. A motion to approve the minutes for the August 18-19 meeting was deferred until the Commissioners had a chance to review them.

A correction was made to the October 19 minute's page 2 to read:

"Next, Tom VanArsdall, with the Division of Water, gave an overview of the proposed water quality regulations. After discussion, Gary Revlett made the motion to approve the regulations and Bob Riddle seconded the motion. By voice vote of 5 in favor and 1 opposed (Betsy Bennett) the Commission recommended approval of:

401 KAR 5:002?Definitions for 401 KAR Chapter 5.

401 KAR 5:026?Designation of uses of surface waters.

401 KAR 5:029?General provisions

401 KAR 5:030?Antidegradation policy implementation methodology

401 KAR 5:031?Surface water standards"

A motion was made by Betsy Bennett and seconded by Bob Riddle to approve the October 19 minutes with one addition. The motion carried.

Betsy Bennett and Aloma Dew voiced the opinion that it would benefit EQC to visit with some legislators. Ms. Cole said she would set up some meetings.

Ms. Cole gave an update on the Onsite Sewage Project. Mr. Richards and Ms. Cole briefed Secretary Bickford on the project findings on December 8. Secretary Bickford noted that he was pleased with the work that has gone into bringing this report to reality. Secretary Bickford has sent a letter to Secretary Helton with the Cabinet for Health Services transmitting the report.

Ms. Cole called Commissioners attention to a letter EQC received from the Green Mountain Institute in Vermont complementing EQC for the State of Kentucky's Environment report. EQC plans to decline the Institute's invitation to hire them as a consultant on ways that the reporting could be improved.

Ms. Cole next called attention to the EQC 1998-99 Biennial Report. This report is now at the printers but will be available to give to legislators as we work the session.

Ms. Cole next took the opportunity to thank Betsy Bennett for her influence with the Rudd Foundation in securing a grant for \$900. These funds will be used to put the State of Kentucky Environment report in the hands of 180 environmental educators in the Jefferson County School District.

Ms. Cole also complemented staff member Erik Siegel on the work he has done to place a photo gallery on our web page. Ms. Cole encouraged all the commissioners to check it out. She also mentioned that Secretary Bickford was supportive of EQC's budget request for funding to have the next State of Kentucky's Environment report on CD-ROM. Only a few new projects were included in the Cabinet's funding request and we feel fortunate that Secretary Bickford supported this innovative idea.

Ms. Cole next reviewed the upcoming EQC meeting schedule. The next meeting is scheduled for February 24, 2000.

There being no further business, the meeting adjourned at 4:00 pm.

Signed

Date